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| APPLICATION NO.             | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------|-------------|----------------------|---------------------|------------------|
| 10/712,637                  | 11/13/2003  | Lapthe Chau Flora    | ITDE-PNV110US       | 8980             |
| 23122                       | 7590        | 10/22/2004           | EXAMINER            |                  |
| RATNERPRESTIA               |             |                      | NGUYEN, THONG Q     |                  |
| P O BOX 980                 |             |                      | ART UNIT            | PAPER NUMBER     |
| VALLEY FORGE, PA 19482-0980 |             |                      | 2872                |                  |

DATE MAILED: 10/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/712,637

Applicant(s)

FLORA, LAPTHE CHAU

Examiner

Thong Q Nguyen

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7-13 and 15-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-13 and 15-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. The present Office action is made in response to the amendment filed on 8/9/2004. It is noted that in the mentioned amendment, applicant has made amendments to claims 7-11 and 13; canceled claims 1-6 and 14; and added a new set of claims, i.e., claims 15-19 into the application.

A review of the device recited in the newly-added claims 15-18 has resulted that the device of the newly-added claims has the same scope as that of the amended claims 7-11 and 12 and thus those claims are examined with the claims 7-11 and 12.

### ***Specification***

2. The lengthy specification which is amended by the amendment has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 17-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 2872

a) Claim 17 recites the limitation "said generally cylindrical protrusion" in the feature thereof "wherein said ...to an accessory" (lines 1-2). There is insufficient antecedent basis for this limitation in the claim.

b) The remaining claim is dependent upon the rejected base claim and thus inherits the deficiency thereof.

### ***Claim Objections***

5. Claim 15 is objected to because of the following informalities. Appropriate correction is required.

In claim 15: on line 7, the claim recites the feature thereof "said assembly".

However, since there are two assemblies recited in the claim as can be seen on line 1 and line 2 of the claim, it is unclear which assembly does the claim imply by the terms "said assembly" on line 7 of the claim. Should "said assembly" (line 7) be changed to --said lens assembly-- to make clear the feature claimed?

It is also suggested that the following terms --that of-- be inserted after "as" (line 8) for the purpose of overcoming a grammatical error occurred in the phrase thereof "said protrusion having...portion" (lines 7-8) comply with the grammatical

### ***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 7-13 and 15-19, as best as understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Bryant et al (U.S. Patent No. 5,943,174, of record) in

Art Unit: 2872

view of Schweitzer et al (U.S. Patent No. 5,867,313, of record), Izumi (Japanese reference No. 2-118534) and Agata et al (U.S. Patent No. 6,680,845, of record).

Bryant et al, Patent No. '174, disclose a night vision device having a housing for supporting an objective lens section, an image intensifier section and an eyepiece section. The use of an adapter secured to the housing for attaching the night vision device to an accessory wherein the adapter comprises a fastener in the form of a screw having a shape and size similar to those of the objective lens section is implied as can be seen in columns 6-7 and shown in figures 8-10. The only feature missing from the night vision device provided by Bryant et al is that they do not explicitly state the use of a lens cap for covering the objective lens section of the device when the device is not in use.

However, the use of a lens cap for covering the objective lens of a night vision device is clearly known to one skilled in the art as can be seen in the night vision device provided by the Patent No. '313 which has the same assignee and two common inventors as those of the Patent No. '174. In particular, in columns 7-8 and fig. 1, Scheiweitzer et al, Patent No. '313, discloses the use of a lens cap (170) for covering the objective lens section of a night vision device wherein the lens cap is connected to the housing of the night vision device (10) by a cord (184). Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the night vision device provided by Bryant et al by utilizing a lens cap connected to the housing of the night vision device as

suggested by Schweitzer et al for the purpose of covering the objective lens section of the device from damage/dust when the device is not in use.

The combined product provided by Bryant et al and Schweitzer et al as described above does not state that the lens cap is hold by the fastener formed on the adapter secured to the housing for attaching the night vision device to an accessory as claimed. However, the use or the modification of attaching a lens cap onto a section of an optical device when the device is not in use is found in each of the Japanese reference No. 2-118534 and the U.S. Patent No. 6,680,845. In particular, Izumi discloses an optical device having a lens system (1) detachably attached to a camera main body (9). The lens system as described in pages 663-664 and shown in figure 1 comprises a lens barrel (3) projected from the surface of the lens system (1) and a lens cap housing part (22) having a protrusion projected from the surface of the lens system (1). A lens cap (4) is able to retain on the protrusion of the lens cap housing cap when it is removed from the lens barrel (3). While the Japanese reference does not clearly state that the lens barrel and the protrusion of the lens cap housing part have the similar dimension; however, the dimensions of the lens barrel and the protrusion of the lens cap housing part are inherently the same because the lens cap (4) is able to retain in both the lens barrel (3) or the protrusion.

As a result of such a structure, a user will remove the lens cap (4) from the lens barrel (3) and attach it to the lens cap housing part when the lens barrel (3) is attached to the main body of the camera. It is noted that both the lens barrel (3)

Art Unit: 2872

and the protrusion of the lens cap housing part have substantial circular-shaped configuration. In the same viewpoint, Agata et al disclose the use of a lens cap (44) for an optical device having an objective lens section support an objective lens (43) wherein the lens cap is connected to the device by a cord (45). Agata et al teach that when the device is put in use then the lens cap is removed from the lens barrel (41) and placed in a recess (28) of the device for the purpose of avoiding the problem of dangle movement to make an obstacle to the image pickup and eliminating the possibility of missing. See Agata et al, column 9. Thus, it would have been obvious to one skilled in the art at the time the invention was made to attach the lens cover onto the protrusion in the form of a screw head of the adapter used to secure the night vision device to an accessory when the protrusion in the form of a screw head has its size and shape similar to those defined by the objective lens section in the device provided by Bryant et al and Schweitzer et al as suggested by Izumi and Agata et al for the purpose of avoiding the problem of dangle movement to make an obstacle to the image pickup and eliminating the possibility of missing.

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 7-13, and now applied to claims 7-13 and 15-19 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

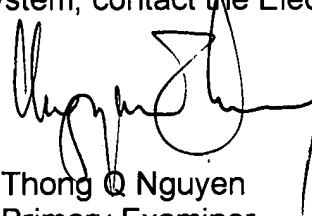
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Art Unit: 2872

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thong Q. Nguyen  
Primary Examiner  
Art Unit 2872

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